

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	
)	
East Washington School Corporation)	File No. SLD-273794
Pekin, Indiana)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: August 8, 2002

Released: August 9, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has before it a Request for Review filed by the East Washington School Corporation (East Washington), Pekin, Indiana, challenging a denial by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) of East Washington's Funding Year 2001 application for discounts under the schools and libraries universal service support mechanism.¹ For the reasons set forth below, we deny the Request for Review.

2. Under the universal service support mechanism, eligible schools may apply for discounts for certain telecommunications services, Internet access, and internal connections.² The Commission's rules require that the applicant submit to SLD a completed FCC Form 470 stating the applicant's technological requirements. Subsequently, the applicant must file with SLD a FCC Form 471 stating the services and carrier selected, and the amount of funds needed.³

3. East Washington's Funding Year 2001 FCC Form 470 was posted on November

¹ Letter from Gregory Powell, East Washington School Corporation, to Federal Communications Commission, filed April 16, 2001 (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. § 54.504.

17, 2000, with an allowable contract date of December 15, 2000.⁴ On Block 2 (Summary Description of Needs or Services Requested) of its FCC Form 470, East Washington stated that it sought competitive bids for “month to month services for which the applicant has no signed, written contract.”⁵ Its FCC Form 471 was signed by East Washington Superintendent Gerald Rose on December 8, 2000, postmarked December 20, 2000, and received by SLD on December 27, 2000, all before the FCC Form 471 deadline of January 18, 2001.⁶

4. SLD sent East Washington additional requests for information on March 30 and April 12, 2001, but on April 25, 2001, SLD staff determined that the FCC Form 471 application had to be denied because the 471 application was signed before the allowable contract date.⁷ On July 23, 2001, SLD notified East Washington of this denial, stating that “The Form 471 application was signed and/or submitted prior to the expiration of the 28-day waiting period from the day of posting of the Form 470 to the SLD Web Site.”⁸

5. East Washington also states that it telephoned SLD on January 16, 2001, to confirm SLD’s receipt of the FCC Form 471 that it mailed on December 20, 2000.⁹ When SLD was unable to confirm that the document had arrived, East Washington sent a second copy of its FCC Form 471 that was signed on December 8, 2000. The second submission was postmarked on January 17, and arrived at SLD on January 22, 2001.¹⁰ On March 22, 2001, SLD wrote East Washington that the second application was rejected because “The FCC Form 471 submitted does not contain an original ink signature.”¹¹

6. On April 9, 2001, East Washington filed the present Request for Review to appeal SLD’s Funding Year 2001 Rejection Letter. Attached to the Request for Review is a copy of

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (Form 470) at 5. The “Allowable Contract Date” is the date at the end of the required 28-day period during which services needed by an applicant are posted on the SLD Web Site, so that competing service providers can submit their bids to provide the services. *Id.*

⁵ FCC Form 470 (Form 470 Application No. 843880000310869), East Washington Form 470, posted November 17, 2000.

⁶ FCC Form 471 (File No. SLD-273794), East Washington School Corporation, filed December 27, 2000 (First East Washington Form 471).

⁷ SLD Exception Documentation, File No. SLD-273794, East Washington School Corporation, dated April 25, 2001.

⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gregory Powell, East Washington School Corporation, dated July 23, 2001 (Funding Commitment Decision Letter).

⁹ Request for Review.

¹⁰ FCC Form 471 (File No. SLD-275568), East Washington Form 471, filed January 22, 2001 (Second East Washington Form 471).

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gregory Powell, East Washington School Corporation, dated March 22, 2001 (Funding Year 2001 Rejection Letter). The March 22, 2001 letter does not reference a particular application. SLD’s Funding Year 2001 FCC Form 471 instructions state that the Item 30 signature block requires “the authorized person to sign the FCC Form 471 with an original, ink signature,” and that “NO COPIES OF SIGNATURES WILL BE ACCEPTED (*emphasis in original*).” Instructions for Completing the Schools and Libraries Universal Services, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000), at 25.

East Washington's FCC Form 471, with a signature dated December 19, 2000.¹² This dated signature contradicts the December 8, 2000 dated signature in the two FCC Form 471s filed by East Washington with SLD.¹³ There is no indication in the record to confirm that the FCC Form 471 signed on December 19 was ever sent to, or received by, SLD.

7. We first address the First East Washington Form 471 filed with SLD on December 27, 2000. The Commission's rules provide that, in general, an applicant must seek competitive bids for all services eligible for support.¹⁴ An applicant must file its FCC Form 470 with SLD, so that SLD can post the services requested on its website, to which interested bidders can respond.¹⁵ The applicant must wait 28 days, until the allowable contract date, before entering into an agreement with a service provider for the requested services, and before submitting its FCC Form 471 requesting support for the services ordered by the applicant.¹⁶ The exceptions to these obligations are few and limited, and none of them are relevant here.¹⁷

8. We conclude that East Washington did not meet the competitive bidding requirements for its First East Washington FCC Form 471. East Washington stated on its FCC Form 470 that it was soliciting new services.¹⁸ In response, SLD posted East Washington's Form 470 to the SLD website on November 17, 2000.¹⁹ East Washington was, accordingly, obliged to wait until the allowable contract date, December 15, 2000, before entering contracts with bidders, and signing the FCC Form 471.²⁰ East Washington's FCC Form 471, however,

¹² Request for Review.

¹³ The FCC Form 471 attached to East Washington's Request for Review was signed by Superintendent Gerald Rose on December 19, 2000, which was after the December 15 ACD, and eleven days later than the December 8, 2000 signature date on the First East Washington Form 471.

¹⁴ 47 C.F.R. § 54.504.

¹⁵ FCC Form 470.

¹⁶ 47 C.F.R. § 54.504(c); *see also* Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (October 2000) at 25 ("Item (35) requires that the date of signature of the Form 471 be provided. Please note that for applications requesting new services, this date CANNOT be earlier than any Allowable Vendor Selection/Contract Date you cited in Item (17) of any Block 5 submitted with this application." (*emphasis in original*))

¹⁷ The following contracts are exempt from the competitive bidding requirements: (1) contracts signed before July 10, 1997 for the life of the contract; (2) contracts for Funding Year 1 signed between July 10, 1997 and January 30, 1998; and (3) contracts signed pursuant to the Commission's competitive bidding requirements in a prior funding year. 47 C.F.R. §§ 54.504, 54.511(c) (first two exceptions); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, DA 99-1773, 1999 WL 680424 (Com. Car. Bur. 1999), para. 10 (third exception). *See also Request for Review of the Decision of the Universal Service Administrator by Antioch Unified School District*, File No. SLD-139333, CC Dockets No. 96-45 and 97-21, Order, DA 01-412 (Com. Carr. Bur. rel. February 16, 2001).

¹⁸ *See* East Washington Form 470, Block 1, Item 5. If an applicant wishes to contract for services exempt from the competitive bidding requirement, it must indicate that on the FCC Form 470, so that SLD will not post those services on its web site as being available for bidding.

¹⁹ SLD Web Site, Search Posted Form 470 Applications, Funding Year 4, East Washington School Corporation, http://www.sl.universalservice.org/Search_FundYear_Select.asp.

²⁰ FCC Form 470.

was signed on December 8, 2000, indicating that contracting decisions had already been made, prior to the completion of the bidding process.²¹

9. The signature date on the FCC Form 471 would not be controlling if the services for which East Washington sought discounts under the universal service mechanism fit one of the limited exceptions to the competitive bidding requirements for existing contracts. We conclude after examining the record, however, that the contracts presented by East Washington do not meet those requirements. East Washington seeks partial payment for 12 months of on-going service by three carriers.²² As evidence of its contracts, East Washington's First and Second FCC Form 471s attach the November 2000 list of charges by the carriers.²³ East Washington actually, therefore, is seeking payment for existing contracts, not new services.

10. The first exception to the bidding requirements applies only to contracts signed before July 10, 1997. There is no evidence in the record as to when the three contracts for which funding is requested originated, and, therefore, we cannot apply the first exception.²⁴ The second exception applies only to services provided in Funding Year 1998, which would exclude East Washington's Funding Year 2001 requests. Similarly, neither the record nor SLD's website yield evidence that the contracts fulfill the third exception, by having been processed through the FCC Form 470 bidding requirements in a prior year.²⁵ The FCC Form 471 filed on December 27, 2000, therefore, was ineffectual, because it violated the 28-day competitive bidding requirement.

11. The deficiency in the First East Washington Form 471 is not corrected by the January 17, 2001 filing of a second copy of the FCC Form 471.²⁶ Although the Common Carrier Bureau (now known as the Wireline Competition Bureau) has held that a photocopied signature is not an impediment to an application, the second FCC Form 471, like the first, was signed on December 8, 2000, before the allowable contract date of December 15, 2000.²⁷ The FCC Form

²¹ First East Washington FCC Form 471.

²² First and Second East Washington Form 471s, Block 5, Discount Funding Requests. The attachments to the First and Second East Washington Form 471s consist of November 2000 monthly transmission charges from Washington Rural Telephone Co-op, Verizon Wireless, and AT&T.

²³ *Id.*

²⁴ Block 2 of East Washington's FCC Form 470 identified the services for which competitive bidding posting was not required. East Washington indicated elsewhere in Block 2 that its services did require competitive bidding. The burden is on the applicant to make this determination as well as to provide a breakdown of eligible services. *Request for Review by Chelmsford Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-121771, CC Docket Nos. 96-45 and 97-21, Order, DA 02-95 (Com. Car. Bur. rel. January 18, 2002).

²⁵ SLD web site, Search Posted Form 470 Applications, Funding Years 1-4, East Washington School Corporation, http://www.sl.universalservice.org/Search_FundYear_Select.asp.

²⁶ Second East Washington FCC Form 471.

²⁷ First and Second East Washington Form 471s. The fact that the signature on the second FCC Form 471 was a photocopy is not an impediment. *Request for Review by New Hartford Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-007628, CC Docket Nos. 96-45 and 97-21, Order, DA 01-2536 (Com. Car. Bur. rel. November 2, 2001).

(continued....)

471 signed on December 19, 2000 that accompanied East Washington's Request for Review has no bearing because it was never properly filed with SLD.

12. We affirm SLD's decision to reject both of East Washington's FCC Form 471 applications, and, therefore, deny East Washington's Request for Review.

13. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by East Washington School Corporation, Pekin, Indiana, on April 16, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

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